

[NOT FOR PUBLICATION]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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DATE FILED: 5/27/08

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EDWARD KIMLEY,

Petitioner,

-against-

WARDEN JANICE M. KILLIAN, FEDERAL  
CORRECTIONAL INSTITUTION OTISVILLE, NY  
& J. PETRUCCI, DISCIPLINARY HEARING  
OFFICER, FEDERAL CORRECTIONAL  
INSTITUTION, SCHUYLKILL, PA,

Respondents.  
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08 Civ. 4385 (CM) (AJP)

**REPORT AND RECOMMENDATION**

**ANDREW J. PECK, United States Magistrate Judge:**

**To the Honorable Colleen McMahon, United States District Judge:**

Although petitioner currently is incarcerated at FCI Otisville in this District, his § 2241 petition challenges a disciplinary hearing that occurred at FCI Schuylkill, Pennsylvania. Accordingly, in the interest of justice, I recommend that the petition be transferred to the Middle District of Pennsylvania, where FCI Schuylkill is located.

**FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the

Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable Colleen McMahon, 500 Pearl Street, Room 640, and to my chambers, 500 Pearl Street, Room 1370. Any requests for an extension of time for filing objections must be directed to Judge McMahon (with a courtesy copy to my chambers). Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993), cert. denied, 513 U.S. 822, 115 S. Ct. 86 (1994); Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.), cert. denied, 506 U.S. 1038, 113 S. Ct. 825 (1992); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); Wesolek v. Canadair Ltd., 838 F.2d 55, 57-59 (2d Cir. 1988); McCarthy v. Manson, 714 F.2d 234, 237-38 (2d Cir. 1983); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

Dated: New York, New York  
May 27, 2008

Respectfully submitted,



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**Andrew J. Peck**  
United States Magistrate Judge

Copies to: Edward Kimley  
U. S. Attorney's Office, S.D.N.Y.  
Judge Colleen McMahon